

Fehr Brewing Co., Incorporated, Louisville, Ky." The neck labels read, "Brewed Fehr's Fehr's in over 13% Original Extract" and Brewed in over 14% Original Extract", Beer Ale respectively.

The articles were alleged to be misbranded in that the statements on the labels, "Fehr's 13% Beer Brewed in 13% Original Extract" and "Fehr's 14% Ale Brewed in over 14% Original Extract", were false and misleading and tended to deceive and mislead the purchaser when applied to beer and ale containing 4.8 percent and 5.95 percent, respectively, of alcohol by volume. The statement on the label of the ale was alleged further to be misleading and deceptive by reason of the fact that the numerals "14" were larger than other reading matter upon said label.

On April 25, 1936, no claimant having appeared, judgments of condemnation were entered and it was ordered that the products be delivered to the Secretary of the Treasury.

W. R. GREGG, *Acting Secretary of Agriculture.*

26055. Misbranding of canned cherries. U. S. v. 25 Cases of Canned Cherries. Default decree of condemnation. Product delivered to a charitable organization. (F. & D. no. 37545. Sample no. 53461-B.)

This case involved canned cherries which were substandard because of the presence of an excessive number of pits and which were not labeled to indicate that they were substandard.

On April 3, 1936, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 cases of canned cherries at San Diego, Calif., alleging that the article had been shipped in interstate commerce on or about February 26, 1936, by the Western Oregon Packing Corporation, from Corvallis, Oreg., and charging that the article was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: (Case) "Fenwick Brand R S P Cherries Packed for Youngs Market San Diego, California"; (cans) "Water Pack Pitted Red Sour Cherries * * * Approved for Color Flavor Quality Fill by Fenwick Packed For James Fenwick Company Portland, Ore."

The article was alleged to be misbranded in that the cases were labeled or branded so as to deceive or mislead the purchaser, since they failed to show that the product was water-packed, and in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On April 27, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to some charitable or welfare organization.

W. R. GREGG, *Acting Secretary of Agriculture.*

26056. Adulteration and misbranding of plum preserves. U. S. v. Two Cases of Alleged Plum Preserves. Default decree of condemnation and destruction. (F. & D. no. 37551. Sample no. 62618-B.)

This case involved a shipment of plum preserves that contained less fruit and more sugar than a standard preserve, and that also contained added pectin and water.

On April 6, 1936, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two cases of alleged plum preserves at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about October 15, 1935, by Lutz & Schramm Co., from Pittsburgh, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Jar, main label) "L. & S. Pure Preserves, Lutz & Schramm Co., Pittsburgh, Pa."; (strip label) "Pure Plum Preserves * * * Guaranteed Pure."

The article was alleged to be adulterated in that sugar, pectin, and water which should have been removed by boiling, had been mixed and packed with the article so as to reduce or lower its quality; in that a mixture of fruit, sugar, pectin, and water containing less fruit and more sugar than preserves, had been substituted for preserves, which article purported to be; and in that

sugar, pectin, and water had been mixed with the article in a manner whereby inferiority was concealed.

The article was alleged to be misbranded in that the statement on the label, "Pure Preserves", and the statements on the strip label, "Pure Plum Preserves" and "Guaranteed Pure", were false and misleading and tended to deceive and mislead the purchaser when applied to a product resembling preserves but which contained less fruit than preserves, the deficiency having been concealed by the addition of pectin, water, and excess sugar; and in that it was an imitation of and offered for sale under the distinctive name of another article, namely, preserves.

On May 21, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

26057. Misbranding of malted milk. U. S. v. 34 Cases of Malted Milk. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. no. 37558. Sample no. 59363-B.)

This product was represented to be chocolate-flavored malted milk containing appreciable amounts of skim milk and eggs. Examination showed that it contained little or no malted milk, skim milk, or egg.

On April 6, 1936, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 cases of chocolate-flavored sweetened malted milk at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about December 21, 1935, by the General Desserts Corporation, from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lovely Chocolate Flavored Sweetened Malted Milk * * * containing the nourishing elements of Malted Milk, cane sugar, choice grade of cocoa, partially de-fatted milk and eggs. * * * Guaranteed as a 100% pure food which meets all pure food law requirements. General Desserts Corp., N. Y. O. U. S. A."

The article was alleged to be misbranded in that the statements on the label, "Malted Milk", "Chocolate Flavored Sweetened Malted Milk"—wherever it appeared on the label—"containing the nourishing elements of Malted Milk * * * partially de-fatted milk; eggs", and "Guaranteed as a One hundred per cent pure food which meets all pure food law requirements", were false and misleading and tended to deceive and mislead the purchaser.

On May 4, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be turned over to some charitable institution.

W. R. GREGG, *Acting Secretary of Agriculture.*

26058. Misbranding of canned pears. U. S. v. 148 Cases of Canned Pears. Product released under bond to be relabeled. (F. & D. no. 37559. Sample no. 60918-B.)

This case involved a shipment of canned pears which were substandard because they were excessively trimmed and which failed to bear a statement prescribed by the Secretary of Agriculture, indicating that they were substandard. The label failed to bear a statement of the quantity of the contents since a label for a 1-pound 14-ounce can was used on cans containing on the average approximately 6 pounds 12 ounces.

On April 8, 1936, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 148 cases of canned pears at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about December 14, 1935, by Washington Packers, Inc., from Sumner, Wash., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Ranier Brand Bartlett Pears, Net Contents 1 Lb. 14 ozs. Packed by Washington Berry Growers' Packing Corp. Sumner, Wash."

The article was alleged to be misbranded in that it was substandard, since it was excessively trimmed and was not in unbroken halves; and in that the quantity of contents was incorrectly stated, since the average net weight was 6 pounds, 12.69 ounces.

On May 6, 1936, the Kent Food Corporation, Brooklyn, N. Y., having appeared as claimant and having consented to the condemnation and forfeiture